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**Analysis of the international safety standard of "Responsibility to Protect"  
in relation to the Intergovernmental Commission on Human Rights of the  
Association of Southeast Asian Nations (AICHR): case study on the crisis of  
ethnic Muslim minority "Rohingya "in Myanmar.**

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## **DEDICATION**

This paper is primarily dedicated to my parents for their constant support and guidance at every stage of my life. To my family for being my pillars and role models in every facet of their lives. Having your devotion to God and loved ones will always be my goal in life. My R.E for being the family one chooses and for always supporting me and accepting me as I am.

Karina Bravo

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## INDEX OF CONTENTS

<b>DEDICATION</b> .....	ii
<b>GRATITUDE</b> .....	iii
INDEX OF CONTENTS .....	iv
SUMMARY .....	vi
ABSTRACT.....	vii
INTRODUCTION .....	1
CHAPTER I PROBLEMATIC CONTEXT .....	3
1.1.    History of conflict .....	3
1.1.1.    Ethnic background .....	3
1.1.2.    Religious background.....	6
1.1.3.    Violated rights .....	7
1.2.    Research objectives .....	15
1.3.    Justification .....	16
CHAPTER II SUPPORTING THEORY .....	17
2.1.    Association of Southeast Asian Nations (ASEAN - AICHR) .....	17
Objectives and principles of the Association .....	18
ASEAN participation in the case of the Rohingya.....	18
2.1.1.    The Intergovernmental Commission on Human Rights of the ASEAN	19
2.1.2.    Situation of human rights in Myanmar .....	20

2.2.	Implementation of the International Safety Standard Responsibility to Protect.	24
2.2.1.	Basic principles of the Responsibility to Protect. ....	25
2.2.2.	Priorities. ....	26
2.2.3.	Elements: Areas of Responsibility .....	26
2.2.4.	Summary of the Report of the Secretary General: "Implementing the Responsibility to Protect" .....	29
CHAPTER III METHODOLOGY AND RESULTS .....		34
3.1.	Methodology .....	34
CONCLUSIONS .....		35
	Theoretical conclusions.....	35
	Methodological conclusions .....	36
	Pragmatic conclusions.....	36
BIBLIOGRAPHY .....		38

## **SUMMARY**

This work is based on the analysis of the international safety standard of Responsibility to Protect and the Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations (ASEAN) in correlation to the crisis of the ethnic Muslim minority Rohingya in Myanmar. It was performed by interpreting international instruments emanating from the United Nations, the Association of Nations of the Southwest Asia through the International Commission of Human Rights, and the application of the safety standard International Responsibility to Protect, also known as R2P, as a framework for action to address the situation of extreme vulnerability of the Rohingya population with respect to the constant violations of human rights by the state. The application of the deductive method based on qualitative analysis and a documentary research provide the elements of significant consideration for the development of objectives, so you get a relevant conclusion of the current situational context of the Rohingya. In this context a theoretical analysis can be addressed by applying the Standard R2P thus achieving the intervention of the international community in a situation where the Government of Myanmar has shown no intention to solve the ongoing abuse of human rights in an efficient manner.

Keywords: Vulnerability, Human Rights, Responsibility to Protect.

## **ABSTRACT**

The present work is based on the Analysis of the international security norm of Responsibility to Protect in relation to the Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations (AICHR) on the crises of the Rohingya Muslim ethnic minority in the State of Myanmar; which has interpreted international instruments issued by the United Nations Organization, the Association of Southwest Asian Nations through its International Commission on Human Rights. The following paper has also used the application of the International Security Standard of Responsibility to Protect, also known as R2P. The R2P will serve as a framework for action to address the situation of extreme vulnerability of this population with regards to the human rights being constantly violated by the state.

**Keywords:** Vulnerability, Human Rights, Responsibility to Protect.

## INTRODUCTION

At present, the international community has noted with concern the numerous human rights violations in every continent, and specifically the situation of vulnerability with special consideration in social exclusion, such as the constant mistreatment and violations of the fundamental rights of a society in Southeast Asia. In regard to the nations of Myanmar it can be viewed as discrimination when referring to their treatments towards the Rohingya people due to their collective religions, culture and language.

This investigation aims to specifically address the context of the ethnic Muslim minority Rohingya, originally settled in Myanmar, who are in a situation of extreme vulnerability for violations of their human rights. This has bases on the exclusion of their privileges as citizens which has led to frequent persecution that has caused displacements not only internally, but outside the borders as well, leaving these ethnic minorities as refugees with a lack of care and satisfaction of their essential needs: food, health care and education, among others.

The internal scenario, far from being solved, has become worse due to a country regime that represses, curtails, threatens and tortures people for reasons that go beyond religious differences. This situation has attracted the attention of international bodies to ensure the guarantees inherent to human beings. One of these organisms, the Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations (AICHR), has taken the lead in finding a way to mediate the current environment that is in development in Myanmar. Likewise the international commitment to the R2P also seeks to aid in the process of cooperation between states to solve the transgressions evidenced against the minority Rohingya ethnic group.

Consequently, this research seeks to investigate the actions taken by the Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations and its effectiveness in the ethnic Rohingya Muslim minority, as well as the analysis of the relationship of the measures taken by the AICHR in accordance with the provisions of international safety regulations set by the Responsibility to Protect.



In the development of this research, being one purely documentary, legal instruments of international origin issued by the United Nations and other entities guarantors of human rights and the participation of various international organizations will be taken into consideration. This work will also consider references of most recent data relevant to the investigation in order to achieve the established objectives. From a point of scientific inquiry, this will constitute a significant contribution and that could be utilized to address the existing conflict in Southeast Asia.

## **CHAPTER I**

### **PROBLEMATIC CONTEXT**

This chapter presents significant background information that is important to understand to the problematic scenario faced by the Rohingya. The history of their ethnic and religious origin and how it impacts this humanitarian crisis is essential in addressing the Rohingya context of extreme precariousness. It also helps detail the transgressed rights that have caused a condition of vulnerability and exposes a situation that has led to the establishment of certain objectives for this investigation.

#### **1.1. History of conflict**

##### **1.1.1. Ethnic background**

The Republic of Burma, now known as Myanmar, is a country located in Southeast Asia between China, India, Bangladesh, Laos and Thailand. It is surrounded by the Andaman Sea and the Bay of Bengal, and borders with Bangladesh and Thailand. Its territorial political composition consists of 7 states and 7 regions since 1989. The general population is about sixty million. According to the American Central Intelligence Agency (CIA) figures released in 2018, of the estimated sixty million people, most of these people are Burmese with a representation of 68% and Buddhism is professed by 80% of the Burmese population. The rest is distributed in Christians and Muslims who together represent a little more than 10% (Gomez, Restrepo, & Leneveu, 2018, p. 70).

The state of Myanmar is made up of a genuine composition of various ethnicities, languages, cultures and insurgent movements. This gives the country multi-cultural nuances in relation to their approximately 140 recognized different ethnic groups. Each of these groups have their particular characteristics, customs, cultures and even religious beliefs, most of them profess Buddhism and other religious minorities, among them are Muslims.

The long history of conflicts of Rohingya people has led them into exile in Bangladesh. To understand this exile one must date back to the seventh century with the incursion of the first settlers to the Burmese Muslim lands. Another view of the facts is represented by the version of the Burmese authorities, who justify the persecution of this community for illegally possessing their territories (Nuñez, 2018, p. 60).

Thus, two visions of the same conflict arise, on the one hand the unmeasurable vicissitudes suffered by the Rohingya due to the constant harassment which initially appears to correspond to religious differences, and in another context a vision of a government. This government claims the Rohingya people illegally occupied their lands and for this reason are victims of persecution and mistreatment .

The vulnerable environment of the Rohingya has been deteriorated since 1962, when a military invasion of the occupied territory occurs, giving rise to the longest and most bloody persecution; so from that point on, they are indirectly denied the right to education both due to the discrimination to which they were subjected as well as the extreme poverty in which they were immersed. Many people were forbidden to develop trade for their livelihood and those who could were forced to share the profits with the state by paying royalties. These high taxes they had to pay to own the land was what led to their eventual ejection from said territories. However, this situation is exacerbated in 1982, with the establishment of the new citizenship law in which 140 ethnic groups are recognized by the Burmese government. The Rohingya were completely excluded, leading to non-recognition of their rights as citizens (Nuñez, 2018, p. 61).

The above scenario incites the Myanmar government to deny the right to be considered citizens to this ethnic Muslim minority, and therefore leads to their isolation and subjection to extremes of neglect and poverty, leading them to live increasingly precarious situations. The Rohingya received violent treatment by the state, as well as other Buddhist groups who did not recognize their rights.

The first traces of human rights violation are precisely due to their status as stateless, so their fundamental precepts were undermined, some of these being: the right to work, education, welfare and health. In addition, they were generally exploited and stripped of all the privileges that assist a citizen and immersed them in the largest of idleness due to belonging to this ethnic minority.

Notably, Myanmar is geographically adjacent to countries of China and India who historically have desired to have the resources it possesses geographically, such as Myanmar wood, rivers and minerals, which has been exploited by Chinese companies since the early 90s. This situation stems from the ambition of the Burmese government to own the land that originally had been historically occupied by the Rohingya for

many years, this also boosted to their exodus and it constitutes a flagrant violation of human rights (Fiorino, Meding, & Johnson, 2017, p. 15).

From this perspective, the persecution of the Rohingya has two reasons, the first is to expel them from their land as a way to tap into the resources of the territories they occupied, so the Burmese government promoted the burning of their homes to force them to leave the regions they occupied. Second, on the bases of religious differences that led to disputes between Buddhists and Muslims, although the eviction of land that the government did not discriminate performing religion, the true interest consisted of expropriating them of said land.

According to the mentioned reasons, both religious differences and the greed of the government to own the land, give rise to innumerable acts of discrimination, persecution, repression, undermining human dignity and inhumane living conditions. This leads the Rohingya to try to survive in a hostile environment or attempt to flee despite the restrictions they have to navigate the territory. This is done in order to somehow evade all mistreatment and abuse to which they are subjected to.

Currently, since August 2017, another violent crisis arises in Myanmar. This is the reason why the inhabitants Rohingya in the area were forced to emigrate to Bangladesh in search of safer living conditions; circumstance that has led international non-governmental humanitarian agencies and organizations to solicit donations and thus address the critical situation that they are facing as well as try to meet some basic needs that assists them as refugees (Castro, 2018, p. 14).

The above considerations presents us with the Rohingya minority that from the ethnic point of view is difficult to determine their origin due to the multiplicity of influences in terms of religions, languages, customs and also is the reasons that lead to conflict in the nation. With the exclusion of the Rohingya in the citizenship Act, in which the government ignores their prerogatives as citizens and consequently takes action in the innumerable violations of human rights. This produced the exodus of the inhabitants of Myanmar to surrounding territories in order to escape abuse, mistreatment, humiliation and genocides that they have been submitted to.

### **1.1.2. Religious background**

The Rohingya ethnic minority counts among its ancestors the Arab, Pashtun people and Moors and Mongols that settled in Arakan around the seventh century. They became one of the most persecuted minorities in the world, as determined by the United Nations, which recognizes a genocide that has been endured over time, and their treatment for their Islamic profession of faith in a country where most professed Buddhism (Camarero & Zamora, 2017, p. 6).

The crisis has led to the unforgiving persecution to the Rohingya people in Myanmar, during the religious conflict between the Buddhist majority in that country and the Muslim minority to which they belong. The international community holds growing concern to the situation and are attentive to the ongoing situation.

The biggest concern of the Buddhist community would be the population growth of Muslims who could outnumber them in the short term, thus changing the Muslim minority status and taking more and more strength and consolidation. The fact that some neighboring countries are inclined to Islam is also of the Buddhist populations growing concerns. Should these states decide to advance an invasion of the state of Myanmar they would have the support of the Rohingya, who have been excluded from all rights as citizens and are not considered part of the country (Cosmello, 2019, p. 11).

It is a reasonable suspicion expressed by Buddhists in respect of the religious influence that may be advantageous for what is now the ethnic Muslim minority Rohingya, a concern that is shared by the government itself, which if even considered a threat does not represent justification to any continuing violations of human rights to which they are subjected to, causing a major humanitarian crisis. This situation has generated an antagonism of historical origin to the Rohingya, resulting in the destruction of both villages and territories they have occupied as the growing fear increases.

The constant clashes continued between the Buddhist majority and Muslim minorities have produced significant deterioration of coexistence of both religious groups since the British colonial era, which resulted in cruelty and religious intolerance to the point of being the start of great conflicts day to day, which are known to be protected by international law and involve countless violations of human rights of minorities.

In Myanmar, extremist Buddhist monks in their continued resistance to the Rohingya, have regarded them as the reincarnation of snakes and insects, and justified the killings

without considering them a crime against humanity, but instead as a necessary purification of such pests. It is assumed that the Rohingya are agents of an Islamic global conspiracy and seeking world domination, so from this Buddhist perspective they are simply trying at all costs to prevent Islamism, eliminating what from the Buddhist point of view is considered to be a threat. (Azeem, 2017, p. 9).

In this order of ideas, years of smear campaigns, lack of humanism, not to consider the rights of citizens and undermining their personal integrity to commit mass murder, all kinds of indignities and mistreatment of the people Rohingya, are part of the strategies promoted by highly repressive governments for insensitive and individualistic purposes.

The religious context between Muslims and Buddhists has been the trigger for the serious situation faced by the Rohingya largely being driven out of their lands and spread through the surrounding territories, encouraged by a government that incites hatred towards ethnic minorities, widening the gap of tolerance and respect. However, the interventionism of the state to the detriment of the Muslim minority has resulted in segmentation and undermining of human rights. In this way it is difficult to separate ethnic aspects of religious ones, being that both are closely linked to the characterizing these groups and consequently deny all the prerogatives of human beings.

### **1.1.3. Violated rights**

A conflict that has lasted over time with inhumane consequences for the Muslim minority Rohingya and has exposed them vulnerable to the world as a result of the constant violations of fundamental rights, thus determined by UNESCO since 2015, to respect the Amnesty International report 2017-2018 reflects the situation of human rights.

As a result of the crimes against humanity to which they were submitted to there was a huge exodus of Rohingya. The Rohingya made an attempt to escape the relentless pursuit that was ongoing in the Rakhine State, where they continued to live under a system of apartheid and as a result part of the population that went through with the exodus were able to leave the territory. In this context, innumerable violations are evidenced by the army, with restricted access to humanitarian aid, curtailing freedom of expression, in a state where religious anti-Muslim intolerance was becoming more

pronounced without any trace of solution or some responsibility for the violation of human rights.

In this regard, the International Criminal Court (ICC) has decided to open a preliminary case on crimes that have been committed in relation to the Rohingya, especially crimes of deportation, for which this international court acquired the ability to prosecute international crimes restrained by the authorities of the State of Myanmar to the detriment of the Muslim minority, which has led to numerous refugees in the government of Bangladesh (International Herald, 2018).

### *Crimes against humanity*

The Rohingya have been threatened by constant attacks. Even after a UN commission presented its recommendations for the prevention of violent acts promoting peace and reconciliation in Rakhine state, there was the murder of countless people, men and children of this ethnic group, as well as being subjected to inhumane treatment and sexual abuse of Rohingya women and girls by the military and police authorities of the government. In addition to the arson of numerous villages and planting mines, causing the displacement of hundreds of citizens to escape violent and deadly attacks.

The report recorded in August 2018 killings and forced disappearances of informers; however, a significant number of the ethnic group still remained in Rakhine state in subhuman conditions, without rights and citizen guarantees and under constant abuses perpetrated against the Salvation Army Rohingya of Arakan (Anmesty Intrnacional 2017-2018, 2018, p. 324).

In this way, the International Criminal Court declared with jurisdiction to know of the numerous crimes against humanity that produced excessive violence with which the attacks the Rohingya population have been made. In cases of genocide, crimes against humanity, war crimes and crime of aggression; the organization of the United Nations has ruled on what they call ethnic cleansing considering that they have all the characteristics of genocide (International Herald, 2018).

These disproportionate acts and violent attacks were described as "a classic case of ethnic cleansing" by the High Commissioner of the United Nations, and established as

crimes against humanity that impelled the diaspora of the Rohingya to surrounding areas to escape the violence generated; however, those who remained in the state were considered stateless, so they restricted their rights to nationality, to move freely throughout the territory, the right to health, education, work and food, citizen participation. Finally, there was a deterioration in the quality of life in people due to the restrictions imposed with many misfortunes, underfed and victims of constant violations and discrimination.

In this regard, the United Nations Organization has reported numerous murder cases, this organization registered in 2017 a minimum figure of 400 victims. This is coupled with mass rape, slavery, violence against children and massacres of entire villages produced by fire of the soldiers of the State of Myanmar. It is considered genocide for its severity and extent; which results in the isolation of people that remain in the territory live in deplorable conditions with endless misfortunes, which constitutes serious crimes against humanity (Amnesty International, 2017)

### ***Lack of humanitarian accessibility***

The international community represented by the United Nations (UN) is aware of the status and constant human rights violations, lack of medical supplies, food supplies that exacerbate the deplorable situation in which the Rohingya are currently living in. The UN have maximized their efforts in the provision of humanitarian aid to help mitigate existing conditions.

However, both the civil state and the Rakhine army have arbitrarily restricted the passage of all humanitarian aid exposing thousands of people in imminent danger in sectors where the restriction is total. Some activities have been allowed, such as the Movement of the Red Cross and the World Food Program, who are given access to a limited extent. The efforts of the international community are insufficient to satisfy the needs that are increasingly critical; and as a result populations displaced from northern Myanmar were affected with the limitations set by the government regarding access of humanitarian aid. (Amnesty International 2017-2018, 2018, p. 325).

The situation presented by the UN is critical in terms of the conditions in which the Rohingya currently live in. They have been denied all fundamental rights, including the special humanitarian aid which was intended to meet basic needs of children and



pregnant women who they are more vulnerable to the immense precariousness that the government has convicted upon them.

### *Refugees and internally displaced*

From the violence registered since 2012, thousands of Rohingya people have been displaced as a result of conflicts in northern Myanmar. This formed displaced communities with poor quality of life and needs that affect them in every way. More than 600,000 refugees from different communities fled to Bangladesh and were then repatriated to Myanmar through an agreement with the government of Bangladesh, due to the fact that Bangladesh is one of the poorest countries in the world and there was a presence of refugees that exceeded one million citizens. This did not stop their pursuit. The displacements continued inside and outside the territory. It became almost impossible to obtain humanitarian aid and this in turn aggravated the situation, as well as the fear of returning to Myanmar due to inhumane treatment they had to face. (Anmesty Intrnacional 2017-2018, 2018, p. 325).

This situation is approached from the same perspective as crimes of deportation, consisting in forced displacement of people to another country, and also forcible transfer which is understood as the movement of people within a territory without leaving their geographical boundaries. In both cases it is perfected when the victim is forced out of their usual territory of cohabitation to other territories or cross an international border.(International Herald, 2018).

With every crisis of violence the population of displaced persons and refugees increases. This is a community subjected to cruel acts and lacking treatment of all basics of human dignity, struggling for dignified circumstances and fleeing to other territories despite the restrictions and constant harassment choose to become refugees for the chance to escape the abuse and precarious conditions in which they are immersed. The help they receive is insufficient for the high demand needed in their continued struggle to get away from the yoke of the military government which in turn results in constant runaways.

### ***Internal armed conflict***

The situation of the conflict develops in northern Rakhine state. In relation to this the Amnesty International Report 2017-2018 highlights the existence of the armed conflict between the Myanmar army and ethnic armed groups as a way to defend themselves against the various cases of violations of human rights of those who have been victims. The fighting forces of coercion used firearms and artillery aimed at civilian population centers, and this constitutes as war crimes. However, those affected also recorded violations to the provisions of international humanitarian law, including both sides of the conflict using the deployments of landmines and other explosive devices used as defense mechanism. (P. 325)

The circumstances of the confrontation between the army and armed ethnic groups triggered numerous acts of violation of human rights. The registered army executions and other killings that lack all legality also include enforced disappearances, arbitrary detentions, acts of torture and other abuse and forced labor against the Rohingya ethnic minority. In response to many inhuman treatment, ethnic communities also responded with the same tactic such as forced recruitment and extortion. As a result of explosive devices implanted, many people living in displaced zones are afraid to return for fear of being victims of execution.

### ***Freedom of expression, association and assembly***

With regard to the rights of freedom of expression, association and peaceful assembly they continued restricted almost entirely. The defamation charges attempted to be blocked through modified internet use, hiding the truth of the events unfolding under pressure and scrutiny from the international community. Those who could act in defense of the rights of the Rohingya regarding religious intolerance and constant human rights violations were watched, persecuted, prosecuted and held as victims of attacks and intimidation. The work of independent media outlets where increasingly restricted and sometimes criminal consequences were used to challenge journalists to do their job, even professionals of the international media faced charges under the Official Secrets Act to disseminate information on the situation (Amnesty International 2017-2018, 2018, p. 326).

Considering it is a universal right of all citizens to be informed and the job of communication professionals the give out of truthful information, actions of repression, intimidation and arbitrary judgments that are held in Myanmar are cases of violation of human rights of great importance. Not only the national media underwent attacks on their efforts, but international media also undergo these treatments. This restricted sources on the situation in the Rohingya ethnic minority and prohibitions of association and assembly where used to cover the application of inhuman treatment.

It is clear that freedom of expression is a right due to all citizens, the right to express themselves freely, without further limitations than those established by the laws of each state. However, in the case of the Rohingya, they have had broad restrictions on what regards freedom of expression. Moreover, the right to keep informed citizens and the international community about the events unfolding in Myanmar, which constitute a flagrant violation of human rights, is being obstructed in order to prevent accurate information from being divulged by both national and international media.

### *Prisoners of Conscience*

Despite the amnesties that happened in April and May 2017, authorities used laws drafted ambiguously to restrict the rights to freedom of expression, association and peaceful assembly and opted for arbitrary arrests for exercising their rights by imposing cases of abuse of authority and restrictions on the autonomy of conscience. This included torture situations set by the state, which is evidenced in the lack of effort to remedy the situation or to indemnify or assert the rights of the Rohingya.(Anmesty Intrnacional 2017-2018, 2018, p. 326).

This situation of ambiguity in the drafting of internal regulations demonstrates the fraudulent purpose of the state to enforce the law in cases of freedom of expression, free association and peaceful assembly, in this sense, individuals were caught and severed all rights both civil and human, covered under a legal loop the Myanmar government could play to their advantage.

### ***Freedom of religion or belief***

The constant violent events in the Rakhine state brought about an increase of religious intolerance and segregation to those who identify with the Muslim religion. This allowed for speeches full of violence and hatred that made the situation worse. With the passage of time religious minorities, especially Muslim, were still victims of discrimination to the extent that the police decided to close two religious schools as a result of Buddhist pressure is the dominant religion (Anmesty Intrnacional 2017-2018, 2018, p. 326).

A constant persecution of religious minorities is evidenced, especially the marked difference between those who profess Buddhism and Muslims, a situation that gave rise to a conflict that far from being solved. This adds other elements that increasingly send confrontational messages of hate and violence and as a result bring more segmentation of the society, whose differences generated more acts of violence and violation of human rights of the Rohingya.

### ***Death penalty***

The application of fatal regulations such as the death penalty, also implemented by the courts of the state of Rakhine, continue to impose sentences lethal in compliance with the provisions of legislation which have continued to allow these impositions. However, such executions were not recorded grounded in law despite the constant violent attacks that are carried out on a daily basis. (Anmesty Intrnacional 2017-2018, 2018, p. 327)

These legal provisions allow for the application of the death penalty in the state of Rakhine. It constitutes a blatant violation of human rights, although no executions were officially recorded, which only aggravates the vulnerable situation of the Rohingya. The constant attacks puts them in a context of vulnerability. The Human Rights Council of the UN has made great efforts to control all the abuses to which they are subjected to but still faces great challenges in this situation.

### *International scrutiny*

The inquiry to determine the facts and circumstances of the human rights violations in Rakhine state was under charge of the Human Rights Council of the UN. The report it generated received strong opposition from the government, denying them entry to the country as well as denying entry to the research team. This situation was observed for the drafting of the report, so all the attention of the international community was focused towards Myanmar. The Security Council requested through the UN cessation of violence and the lifting of restrictions on the entry of humanitarian aid. Similarly, a resolution on the situation of rights violations in Myanmar and the situation of the Rohingya people was approved, as well as other minorities that are also affected. The restricting of access to special UN commission is then increased to reach a total restriction by way of preventing the spread on the situation of the country (Amnesty International 2017-2018, 2018, p. 327).

As international agencies increase pressure on the vulnerable situation of human rights of the ethnic Rohingya, state intervention and extreme unknown measures are taken to prevent the real context to be revealed. The state of Myanmar gradually restricts access of representatives and commissions of the United Nations, until a total blockade also known as a cover is put to stop the inquiry on the continuing violations of human rights committed.

In the present case, the violated rights in Myanmar as has been reflected in the report by Amnesty International for the years 2017-2018, reveals a reality that has been denied by the government of the state of Rakhine. It draws attention to the overall scenario regarding the violation of human rights that afflicts the people Rohingya and in which the plight of crimes against humanity, discrimination is evident. Its necessary to analyze the deprivation and social deterioration scenarios of international intervention, especially the intervention of the Intergovernmental Commission on Human Rights of the Association of Nations of Southeast Asian Nations (AICHR). It is necessary to base our analysis on international standards such as the international safety standard of Responsibility to Protect (R2P), in order to address the conflict that affects so many people and is exposing them extremely vulnerable.

## **1.2. Research objectives**

### ***Overall objective:***

Investigate whether the actions of the Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations (AICHR) have been effective in the case of actions taken against ethnic Rohingya Muslim minority in the State of Myanmar. In addition, the analysis will include the relationship of the measures taken by the AICHR in accordance with compliance to the provisions of the international safety standard called Responsibility to Protect (R2P).

### ***Specific objectives:***

Identify the relationship between the historical treatment of ethnic Rohingya Muslim minority from the Myanmar government; and in the same way the actions, whether positive or negative, by that government as well as civil society in the State of Myanmar.

Describe the major human rights violations in the treatment and expulsion of the Rohingya minority and reports based from official sources such as international organizations, the media, national and international non-governmental organizations and other relevant sources.

Noting the role of the Intergovernmental Commission on Human Rights of the Association of Nations of Southeast Asian Nations (AICHR) as well as what is the response of the organism to what happened in Myanmar and its relation to compliance as part of the international community of the standard of security Responsibility to protect (R2P).

Interpret the effectiveness of the use of measures that involve the application of the international safety standard of Responsibility to Protect (R2P) in the specific case of the Rohingya in the State of Myanmar.

### **1.3. Justification**

The development of this research involves the presentation of historical facts describing the situation of vulnerability to which the Muslim Rohingya are subjected to and its consequent migration to surrounding territories. The theoretical relevance describes the context of the background, and international support of institutions that monitor human rights in addition to all the regulations issued on the subject that can serve as a tool for application in the present case that is presented.

From a practical point of view the discussion of the regulations applicable to the specific situation shown in the case of Muslim minorities can be considered an alternative to present concrete solutions, as well as it gives us not only the possibility of being passive spectators but to provide elements of consideration to the terrible situation that is currently ongoing.

To address this issue from a social perspective helps us to have a clear view of the extremely vulnerable situation in which the people Rohingya are subjected to, all circumstances of extreme poverty in which they live, rights that have been unstained, starting with the right to be considered citizens and addressing this situation by international bodies and application of special regulations.

As for the methodological perspective, elements of consideration provide us with a logical, organized and systematic structure for presenting information, documentation and analysis, to obtain results and reach relevant conclusions and subsequent recommendations about the case study.

## **CHAPTER II**

### **SUPPORTING THEORY**

In this chapter the presentation of international legal instruments that enshrine the elements of theoretical support, support the development of the analysis units in achieving the goals set and for this purpose the participation of the Association of Southeast Asian Nations are detailed in form of action through the Intergovernmental Commission on Human Rights. In addition to the provisions inherent to the enforcement and application of International Security norm known as the Responsibility to Protect.

#### **2.1. Association of Southeast Asian Nations (ASEAN - AICHR)**

The Association of Southeast Asian Nations (ASEAN - AICHR) was created as a defense mechanism of human rights, for which it has special powers assigned by the various Asian nations that conform it. It is a group consisting of ten nations of Southeast Asia, established in August 1967 in the city of Bangkok, with the aim of promoting economic progress in the region and work together for the promotion of peace and political stability of their Member States, with the participation of 5 precursor countries such as Indonesia, Malaysia, Philippines, Singapore and Thailand. other countries were subsequently incorporated, Brunei Darussalam in 1984, Viet Nam in 1995, the Lao People's Democratic Republic and Myanmar in 1997 and Cambodia in 1999(Amnesty International, 2009).

Thus, ASEAN has the is power to investigate complaints and human rights abuses, in an effort to promote the protection of the same in the countries linked to address serious situations such as that happening in Myanmar. Ensuring the States a transparent mechanism to select the members thus, the organization should be able to uphold human rights based on universal principles, treaties and internationally accepted standards.



## **Objectives and principles of the Association**

The main objectives of the Association of Nations of Southeast Asia are to promote economic growth and development of nations that comprise it, promote peace and political stability in the region based on respect for justice and the order of the legal systems and relations between countries, as well as adherence to the principles established by the United Nations (Rhodes, 2017).

The establishing of fundamental principles is included in the Treaty of Amity and Cooperation of the association, grounded in respect for the independence of nations, sovereignty and territorial integrity and national identity. In this regard, each State is free to direct the course of their existence without external influence or pressure. In this perspective, the states that comprise it cannot interfere in the internal affairs of others, it comes to resolving conflicts peacefully, without any coercion or intimidation.

Based on the goals, mission and principles established by Nations Association of Southeast Asian Nations (ASEAN) an effort described by achieving progress and economic strengthening, and specifically as a framework to support the development of this research, the promotion of peace and political stability, serving as a support without direct intervention or inherent in the internal affairs of the participating States, serving more than guarantors of human rights.

## **ASEAN participation in the case of the Rohingya**

In the course of the conflict it has shown a lack of preparation of the member states of the ASEAN to address the growing displacement of people Rohingya, their efforts to discuss the crisis of the State of Myanmar have led to meetings of its members, however it is necessary to focus attention on regional cooperation for improving the protection of refugees (Shivakoti, 2017).

Thus with regard to the participation of ASEAN in the conflict in Myanmar, it must concentrate on policy development for refugees and protection including schemes appropriate for the internal affairs of member nations where its citizens forced to move to neighboring states because of the continuing violations of human rights policies have been well accepted by all members of the association and will be a contributing element to minimize ethnic and religious conflicts.

This way the faculty of treating this issue is given to the Asean Intergovernmental Commission on Human Rights, but emphasis is given to working on strengthening the institutions as such, laying the groundwork for the establishment of their own court by way of imposing its provisions and ensure effective protection of refugees, as the case of the Rohingya.

### **2.1.1. The Intergovernmental Commission on Human Rights of the ASEAN**

Nations Association of Southeast Asia (ASEAN) gives rise to the Intergovernmental Commission on Human Rights in 1993, in a decade in which the development of international law on the subject is evident, with a high expectation in situations of peace. ASEAN is involved in this way in human rights issues, as their main objective was aimed at the intergovernmental and non-economic integration and support for the protection of the human rights of the people(Björn, 2010).

Thus, the ASEAN member states recognize human rights as principles of national sovereignty and non-superior to other rules of international law, highlighting the principle of non-inheritance in internal affairs of each nation. Thus their conception of human rights also recognized in Asia and Africa emphasizes the existence of personal rights and is community-based and non-individualized and may represent the breakdown of the international order of protecting people without limiting their universal validity, restricting their field action.

However, for this study which is based on research conducted by the Office of the Human Rights High Commissioner of the United Nations (OHCHR), taking into account its role as a specialized agency of the United Nations system has taken to promote and protect human rights in the world. Punctually in the emitted resolution, which is considered to contain the most current update on the situation, and shows the prospect of a crisis over the course of time. It is affected by constant violations of exemptions and whose population each day shifts to other States causing changing situations affecting the current scenario.

The report, presented to the 40th session held between 25 February and 22 March 2019, detailing the status of Muslim Rohingya in Myanmar and the treatment given to the minority by the same government of Myanmar and civil society in that country and

how it has been approached by international organizations is a result of the investigation given by the United Nations to this situation. (General Assembly of the United Nations, 2019).

### **2.1.2. Situation of human rights in Myanmar**

The current situation of human rights in Myanmar has been analyzed from the international point of view, however, the participation of the Special Rapporteur on the situation of human rights has been limited to the interrupt cooperation and denial of access to the country since January 2018 by the Government of Myanmar. In this sense, the picture of the human rights of the people Rohingya depending on the resolution of the Council of Human Rights of the United Nations at its 40th session on February 25 on March 22, 2019 is contemplated by following considerations:

#### ***Work of the independent international investigation mission into Myanmar:***

The outlook presented in the analysis unit derived from the resolution of the Human Rights Council of the United Nations is presented from the perspective of the independent international investigation into Myanmar Mission, regarding the Rohingya ethnic minority:

- a. The decision to extend the mandate of the commission of inquiry, so that the collecting evidence of violations and violations of human rights can be guaranteed, thus, have full documentation that is accurate and solid, sharing the material effectively and prepare records that will facilitate criminal proceedings in a fair and impartial manner, in accordance with international standards to the competent authorities to try crimes against humanity.
- b. With regard to humanitarian assistance by the Government of Bangladesh, it has joined the efforts in line with the actions of the agencies of the United Nations and the international community to all members of the ethnic Muslim minority fleeing the continuing violations of human rights of the Myanmar government.
- c. The development of activities by the United Nations to complement and reinforce assistance regarding the situation of human rights in Myanmar.

- d. The receiving of numerous and consistent allegations of serious illegalities and violations of human rights in Myanmar, including sexual and gender-based violence, violations and abuses against children, therefore it urges the Myanmar authorities to immediately put an end to aggression that has been generated and all violations of international law that have been recorded.
- e. The support provided to the Government of Myanmar by the Association of Southeast Asian Nations through an assessment team to the needs highlighted, noting that the role of the Association in aiding the Refugees, urging the Government of Myanmar to cooperate between the parties, and thus ensure that it can reestablish peace and appropriately ensure a dignified life situation in accordance to international standards.
- f. The Commission requests the Government of Myanmar to eradicate ethnic and religious discrimination over the people Rohingya, first, reviewing the Citizenship Act in which they were excluded and thus violated their legal prerogatives, causing numerous violations of human rights. It requests it to change and the people civil and political rights be restituted, as well as the repeal of discriminatory policies and exemptions that are embodied in laws. (General Assembly of the United Nations, 2019).

***Actions of the government of Myanmar in response to actions of the Intergovernmental Commission on Human Rights.***

The unit of analysis for the following research is derived from the resolution of the Council of Human Rights of the United Nations, based on the actions taken by the government of Myanmar and observed by the Intergovernmental Commission on Human Rights:

- a. Outright opposition to cooperation with the inquiry commission and to deny them access to the information, documentation of events that arise.
- b. The Government of Myanmar in July 2018 instituted an independent commission of inquiry can promote consideration for constant abuses and gross violations of human rights committed in the State by the armed forces, considering that it can operate impartially, objectively and transparently; thus

obtain relevant results to promote accountability in terms of compliance with the provisions of the United Nations.

- c. An agreement of ceasefire is produced by the armed forces of Myanmar for 4 months since December 2018, specifically in the areas of conflict in the north of the country, so as to reduce tensions that occur in the field with the confrontation situation and expanding the scope and extension of the conflict.
- d. Evidence of restrictions on humanitarian access to the state of Rakhine State, which means that the Government of Myanmar should ensure respect and implementation of the provisions of international law, allowing the full entry of humanitarian personnel to regions in conflict, so that give their humanitarian assistance, taking into account age and sex, so they can perform quality work to those affected, and also are requested allow entry to the diplomatic corps and other international representatives.
- e. Approval of a work program for the period 2018 - 2022, stressing the need for the elimination of child and forced labor, respect of ethnic groups, as well as the amendment of the Law on Workers' Organizations, also the Law Settlement of labor conflicts and thus promote freedom of association, in accordance with international work standards.
- f. The signing of a statement by the UN in its aim to eradicate sexual abuse, stating that participants in it are responsible for their actions, accountable for violations of rights of women and girls; Thus, legal reforms concerning the matter are encouraged, promoting the investigation and prosecution of sexual violence.
- g. Amendments to the Law on Management of Vacant land, Virgin and Non-developed land are recently implemented, establishing an inclusive framework to resolve issues of tenure domains, considering the opinion of the affected populations, including Rohingya (General Assembly of the United Nations, 2019).

### *Legal responsibility of the State of Myanmar*

Finally, the analysis unit based on legal liability which commits the actions of the State of Myanmar that are related to the resolution of the Council of Human Rights of the United Nations:

- a. The report states the primary responsibility of States to respect, protect and implement human rights and comply with the obligations to establish criminal consequences inherent to the violations of human rights from an international perspective, as well as a commitment to provide an effective solution to all victims of violations of their prerogatives established in international systems, whether on the assumptions of restitution, compensation or rehabilitation, in order to minimize impunity for the facts presented and have been crimes documented as crimes against humanity.
- b. The states of Rakhine, Kachin and Shan should ensure that all those responsible for violations and crimes against humanity and violators of humanitarian law accountable for their actions using for this the criminal justice mechanisms, whether national or international, that are considered reliable.
- c. Reports indicate that the conflict between the army and ethnic minority Muslim Rohingya has generated constant internal and external displacement as a result of the expansion of the conflict situation, so if the scenario does not improve and ceases violence the State will face a new migratory massive movements towards the international border in search of better living conditions.
- d. The Government of Myanmar must protect victims of rape and abuse, as well as amend laws that restrict freedom of expression, religious professions, peaceful assembly and freedom of association, considered essential to ensure safe environment and appropriate for coexistence community, communicators and advocates agents and especially appropriate rights to reform media legislation to guarantee basic freedoms.
- e. The state of Myanmar must comply with the commitment to unconditionally release political prisoners and give full vindication of those who have already been released; In addition to increasing efforts to prevent hate speech and promotion of violence.

- f. Considers responsibility of the Government of Myanmar to adopt measures that promote inclusion and rights of its inhabitants, thus reducing discrimination minimizing incitement to hatred and violence against ethnic and religious minorities, designing educational programs in accordance with international standards, promoting dialogue and national unity.
- g. Must enable the secure return, free of coercion for the refugees and displaced people as a result of the situation faced by ethnic minorities and thus they will be able to return freely without regards to livelihoods, access to health, education and decent housing (General Assembly of the United Nations, 2019).

Thus, a view of the current situation regarding the ethnic minority Muslim Rohingya is reflected in the state of Myanmar, in the context of exile and displacement as a result of the numerous cases of violations of human rights, which leaves them defenseless and extreme vulnerability to the international community, situation described by ASEAN through a detailed report, in its position as an external observer and demonstrates a deep commitment to resolving internal situations which give rise to the existing scenario.

## **2.2. Implementation of the International Safety Standard Responsibility to Protect.**

Responsibility to Protect ( "RtoP" or "R2P") arises from the World Summit of the United Nations in 2005 in order to complement the action of the international community as a way to prevent and stop genocide, crimes war, ethnic and crimes prosecutions against humanity, it holds rules of international security and human rights, which includes the responsibility of the State in protecting the population in these situations, for which they must enlist the help international community in fulfilling the responsibility assigned. In this regard, the countries of the community should use diplomatic means, humanitarian and other specific bodies for the protection of populations to take stronger measures. It calls upon the collective use of force by the Security Council of the UN if necessary, in cases where states do not fulfill their duty to protect its people, or assume responsibility for the crimes against humanity. (Association for the United Nations in Spain, 2019).

In this way the Safety Standard of International Responsibility to Protect is a tool that provides a range of action to States to address situations of violations of human rights and committing crimes against humanity, as well as the preservation the rights of communities, in the case of the Muslim minority Rohingya who are highly violated, regarding genocides, ethnic persecution and constant violations of their basic rights, so that this legislation would have significant importance in protecting their rights and prevention of offenses.

For the purposes of analysis and description of the provisions governing the origin and use of the rules of Responsibility to Protect (R2P), it is considered in the main basis of the report made in 2001 by the International Commission on Intervention and Sovereignty of the State (ICISS) . It was accepted unanimously by the 12 members whose focus lies in the responsibility to protect, that is, the idea that sovereign states have such responsibility for its citizens calamities such as mass killings, constant violations and starvation; assuming that its omission will be assumed by the community of states. The content of the report describes and outlines the extent of the commitment, exercise and how to do it.(Responsibility to Protect, 2001).

### **2.2.1. Basic principles of the Responsibility to Protect.**

Primarily the responsibility of a state to protect citizens who make it up is based on the sovereignty of each nation. The second principle that the international responsibility to protect is the primacy of the preservation of the rights of populations of non-intervention(Responsibility to Protect, 2001).

The report of the International Commission on Intervention and State Sovereignty bases its principles of the Responsibility to protect on two fundamental bases, the sovereignty of each state governing to its absolute power of disposal and regulation policies and rules governing life in society, so it is the same state that establishes protection regulations and engagement with the people. As for the principle of nonintervention, it will be displaced when the population is facing severe damage as a result of war or repression by the state, and in the event that they are unable or unwilling to prevent citizens suffer as a result violations of their human rights because it deprives them of the right to protect.



### **2.2.2. Priorities.**

The report of the International Commission on Intervention and State Sovereignty of the State considers that its priorities are: prevention as most important dimension of the responsibility to protect; in addition to the adoption of measures that involve less intrusive and coercive methods.(Responsibility to Protect, 2001).

It is important to take into account the priorities set out in the report of the International Commission on Intervention and State Sovereignty of States, as first contemplated a conciliatory way as a means of addressing conflicts or situations of citizens, which should be maximizing resources and efforts if needed; should a time conciliation or prevention does not offer the solution or necessary care for the restitution of the rights or guarantees of citizens achieved, it is necessary to consider the possibility of intervention as a last resort, consider first the measures that are less intrusive and coercive, thereby respecting the sovereignty of States.

### **2.2.3. Elements: Areas of Responsibility**

The responsibility to protect embraces three specific responsibilities under the Report of the International Commission on Intervention and State Sovereignty; the responsibility to prevent, responsibility to react and responsibility to rebuild.

#### ***Responsibility to prevent***

The idea of taking on a commitment of prevention involves the participation of the international community in adopting preventive strategies in order to minimize conflicts or disasters that have been caused by the actions of violation of human rights, ensure fair treatment and equal opportunities for citizens; making this function transcend beyond the borders of a state, so that international involvement gains significant importance, since the consequences of deficiencies in internal policies lead to internationally implementing support strategies, such as assistance in terms of development, support local activities for improvement, mediation, promoting dialogue towards mitigation of conflicts and situations that put citizens in vulnerability (Responsibility to Protect, 2001).

In this regard, international participation may be amenable or moderator, but also take extreme measures with the aim of protecting the rights of citizens, reducing the root

causes and direct internal conflicts of States and other crises caused by man representing danger to the population. In this perspective, one of the main objectives of the commission is the promotion of sustainable and meaningful initiatives to resolve or address the origins of the problems plaguing communities and establishing prevention policies.

Effective prevention of conflict situations depends on three essential conditions, according to the Report of International Commission on Intervention and Sovereignty of the State: one is the knowledge of the fragility of the situation of risks to which individuals are subjected to, also the measures taken in terms of effective policies to address the scenarios and finally the arrangements applied (Responsibility to Protect, 2001).

No doubt the three conditions presented constitute a major contribution in the report submitted by the Commission, since it is essential to the diagnosis of the vulnerability context for the adoption of necessary measures to mediate or prevent aggravation of the situation and finally, orientation towards observance of the measures taken, potentially capable of minimizing the risks of conflict or solve extreme situations. Without this willingness prevention is virtually impossible.

As a basis in the prevention, two types of causes that give rise to conflicts differ, the reasons are given about the underlying motives or profound than are those arising from the internal dynamics of states and may be due to circumstances such as poverty, political repression and inequality in the distribution of resources of the nation, so to the extent that provide solutions to reduce or minimize such circumstances would be able to avoid conflict and its possible consequences; preventive measures will be more effective to the extent of covering a deep and detailed knowledge of the situation presented. Another consideration of the commission corresponds to direct prevention initiatives, which essentially assume the political and diplomatic components, as well as economic,

### ***The responsibility to react.***

Responsibility to Protect also involves the ability to meet in situations where human protection is necessary, taking appropriate measures, which may be of a coercive nature, building on the imposition of sanctions or legal reactions from the international

point of view and in extreme cases military intervention, as a guarantee to the communities affected (Responsibility to Protect, 2001).

In this way the Responsibility to Protect then implies the ability to react to a situation considered as imperative, always being concerned to ensure human protection and once exhausted the use of preventive actions without solving the conflict then takes into consideration intervention, this in cases where nations are not able or do not intend to resolve the situation, which may warrant participation by members of the General Community united in establishing coercive measures of political, economic or judicial nature and in the most extreme situations, as long as the situation warrants it, can access military intervention (Responsibility to Protect, 2001).

It is important to note that both in the case of prevention and the case of intervention, such reaction is essential considering the option that is less invasive or coercive. Once exhausted the preventative or conciliatory way, it is appropriate to consider how military intervention is necessary given that means justify ends are met and converge really serious circumstances, as well as the observance of precautionary principles.

With regard to prior actions to military intervention, it is considered an invasive activity, coercive effect, capable of generating persuasion on the authorities not to put efforts to solve the conflict, so that this intrusion is to resolve short term defense towards the critical situation of human rights.

***The responsibility to rebuild.***

It is considered the consequent action to military intervention, providing full assistance to States for recovery, reconstruction and reconciliation, minimizing the causes of the damage that the intrusion was intended to prevent or decrease. This implies responsibility and to prevent and react, contribute to the recovery or reconstruction. Thus, if the appropriate action is military intervention there should therefore be a willingness to help in consolidating true peace, promoting good governance and sustainable development of the State intervened; In this perspective, both international bodies and the authorities of each nation should ensure the restoration of security and public order, thus achieved the restitution of authority (Responsibility to Protect, 2001).

The dedication of relevant resources is essential for reconstruction, in addition to cooperation with the affected State, possibly warranting the stay in the country once the work that led to the successful intrusion is finished. However, this responsibility to rebuild has repeatedly not been recognized sufficiently, leaving the merit of the intervention under a bad perceptive, given that the will to restore is not a priority.

These post intervention strategies must be planned at the time to raise the possibility of military intrusion, understanding that the instruments to prevent conflicts persist creating humanitarian emergencies; so they must contribute to eradicating such unfavorable conditions. It is considered that economic growth affects both public order and it is essential for general restoration of the state, hence the importance of the contribution to recovery (Responsibility to Protect, 2001).

It is noteworthy that once the decision to intervene is taken, the authorities should seek ways to restore violated guarantees as soon as possible, either on economic, coercive or punitive measures that had been established prior to participation; so the authorities intrusion act as expeditiously as possible to achieve the transfer of responsibilities that can lead to the development of projects established for that purpose, assisted by international organizations, projecting short- and long-term social resilience and economic life of the affected state.

#### **2.2.4. Summary of the Report of the Secretary General: "Implementing the Responsibility to Protect"**

On 30 January 2009, the Secretary General of the Organization of the United Nations published a report entitled "Implementing the Responsibility to Protect" known as R2P, in which the intention of the Secretary is reflected in turning the precept in international policy, which should be debated in the first quarter of the same year; it contemplates the responsibility of states to protect the population that may be facing genocide, war crimes, ethnic cleansing and crimes against humanity. The aforementioned report suggests the operationalization of the Responsibility to Protect, as well as a focus Tripartite and development of the role of early warning, including the recommendation on the appropriate methodology. (Summary of the Report of the Secretary General: "Implementing the Responsibility to Protect", 2015)

For the analysis of the Report of the Secretary-General of the UN on the responsibility to protect, it has taken into account the three pillars raised:

***First Pillar.***

It contains the determination of the responsibility of the States in protecting the population from genocide, war crimes, ethnic cleansing in addition to crimes against humanity, arguing that it is the basis of the responsibility to protect, to which the Secretary General of the UN, to ensure the implementation of the document the World Summit makes a series of recommendations to states, including the following:

The States should ensure that there are effective mechanisms for handling common situations, promoting respect among the various groups that make up society; thus it is stabilized tolerance and social coexistence. It is essential that nations provide support to the management of the High Commissioner of the UN towards compliance with the Responsibility to Protect, for which proposes a mechanism for monitoring the activity of states in reference to human rights through one Universal Periodic Review; pursuant to R2P(Summary of the Report of the Secretary General: "Implementing the Responsibility to Protect", 2015).

Other recommendations involve the implementation of obligations under international humanitarian law, besides those provided for in the Rome Statute of the International Criminal Court; and self-analysis of States in understanding the principles on which the Responsibility to Protect, which, despite being universal principles can be applied to states in their domestic context to solve a particular domestic situation on which it is based.

Identifying risk factors that can coexist within states that result in crimes against humanity, for which it suggests a learning process among nations, through partnership and evaluation mechanisms adapted for this purpose. It is included within the recommendations of the collaboration of States with international organizations, punctually its support to the strengthening of local institutions and the respective judicial controls oversight thereof with respect to human rights.

Finally, the report recommends ensuring an individual approach that involves the integration of children of soldiers, raise assistance for victims of human rights

violations, among others. In addition, to assist the development of networks of survivors, civil society and international organizations and thus help promote and disseminate experiences to prevent similar situations in other states.

### ***Second pillar.***

With regard to the second pillar, it concerns the commitment of the international community to promoting assistance to States involving training them on the ability to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity establishing four possible aspects of aid: firstly promote compliance with the responsibility contained in the first pillar by state; secondly, support for the exercise of that responsibility, thirdly building the capacity to protect populations and ultimately assist state entities "under stress before the conflict and the crisis break out" (Summary of the Report of the Secretary General: "Implementing the Responsibility to Protect", 2015).

Thus it is put under the mutual commitment of the international community with the vulnerable States and so it is recommended to promote dialogue, education and training with regard to human rights; this active participation will help foster learning among nations and thus prevent possible conflict situations; support for international diplomacy initiatives, as well as the determination of civilian capabilities to minimize ethnic related possible problematic contexts.

Other recommendations aim to create civilian capabilities that can operate effectively to emergencies and reinstates the compromise to making deployments of military aid and in this way ensure balance in vulnerable areas; promote the sponsorship of States to support prevention programs and protection under the guidelines of the Responsibility to Protect; so that the strengthening and stability of the population and the consequent peace can be achieved.

### ***Third Pillar***

Finally, the third pillar on which the report of the Secretary-General "Implementing the Responsibility to Protect" is based is oriented towards the responsibility of the international community as to provide timely responses and effectiveness through strategies of prevention and detection of crimes to inherent human rights protected by

the report, in cases where a particular State is missing its responsibility to protect the population it represents. In this regard, the Secretary-General made a proposal with a series of steps to implement the third pillar which includes the participation of the United Nations, including some actions that are referred to briefly below (Responsibility to Protect, 2001).

The involvement of the Security Council and the National Assembly is crucial in organizing finding missions, so that they can investigate and report on the facts which constitute violations of human rights; which may serve as a preliminary indicators and to alert the leaders of the States if serious offenses that are presented to their R2P obligations, and thus avoid the fatal consequences for the population. It is also the power of the international community to make appropriate reminders about the responsibility to prevent incitement to violation of human rights protected by the rules described in the Responsibility to Protect (Summary of the Report of the Secretary General: "Implementing the Responsibility to Protect", 2015).

The actions lean towards promoting very specific diplomatic sanctions, such as financial transfers, sumptuous goods or armaments; In addition incitement to State members to recognize and apply the principles, rules and doctrines of strict observance with regard to the use of force in extreme situations arising from the Responsibility to Protect. Thus, the Secretary General will also have the responsibility to promote to the members of the Security Council, all information it deems appropriate regarding possible situations involving the Responsibility to Protect to encourage the development of efficient operations.

With regard to the three fundamental pillars on which it is based, the report issued by the Secretary-General on the Responsibility to Protect constitutes a triangulation of need, commitment, not only by nations bearing the responsibility to make certain the observance of preserving evidenced human rights, but also by the international community in the sense of assisting nations in need and to ensure the effective implementation of the Responsibility to Protect.

In this manner, the Responsibility to Protect R2P is seen as an ideal mechanism for addressing the humanitarian crisis facing the people Rohingya. Initially it is a prevention tool towards adverse scenarios, then should there not reconcile conflict

situations by incompetence or inability of the State, consequent military intervention and finally reconstruction activities, regulations that do not just happen directly on an invasive bases, rather preventive and conciliatory and decomposition of the state and setting prerogatives to achieve and mitigate the risks of other similar contexts.



## CHAPTER III METHODOLOGY AND RESULTS

### 3.1. Methodology

The methodological context serves as reference for the systematic, organized and coherent background that underpins this research, which enables the obtainment of relevant information for achieving the objectives. Thus the study of documentary investigation, developing the qualitative method, providing vital importance to gathering information, since the purpose is not to develop a measurement of criteria that allows inferences, but direct data collection that is issued by documents, people, communities, processes or organisms that allow us to describe how events are seen from different perspectives(Hernandez, Fernandez, & Baptista, 2014).

In the present case, data is evident from the documents emanating from the various international organizations and reports issued in reference to the problems and current situation of the Rohingya, which provide relevant information to develop units of analysis, so that the use of legal interpretation will allow the analysis of the provisions of international mechanisms that can be used to address the situation of extreme human rights abuses.

Based on the previously stated, the appropriate methodology used in this research is direct observation of international treaties and reports issued by international organizations, as well as data will also be used. Data obtained by human rights observatories located in the Asian region such as: Commission Asian Human Rights (ACHR)the Association of Southeast Asian Nations (ASEAN - AICHR); as well as the International Safety Standard Responsibility to Protect (R2P) and specifically the report of the Secretary-General of the Organization of the United Nations entitled "Implementing the Responsibility to Protect," among other documents of significant relevance.

## CONCLUSIONS

Analyzed as they were, the international instruments, safety regulations that contain elements of consideration in regard to the regulation of the current situation of ethnic minority Muslim Rohingya in the State of Myanmar, the actions of the Inter-American Commission are analyzed and the following conclusions are made:

### **Theoretical conclusions**

From the theoretical point of view it was identified that the historical treatment that the state of Myanmar has given Muslim ethnic minority Rohingya has been one of absolute submission, submerging citizens in the deepest vulnerability of their human rights, thus evidenced through the report issued by the Intergovernmental Committee of the Association of Southeast Asian Nations (ASEAN), used to describe the situation of human rights in Myanmar.

With regard to the description of the rights violated by the he state of Myanmar to the Rohingya community, is evident from the description given by Amnesty International in which it exhaustively describes crimes against humanity, impediment to the access of humanitarian aid, refugees and displaced, internal armed conflict, limiting the freedom of expression, limitation of religious freedom, prisoners of conscience, death penalty and international scrutiny.

It is important to point out the role of the Intergovernmental Commission on Human Rights ASEAN on describing in its report the situation analyzed in three perspectives: The work of the Independent International Fact Finding Mission on Myanmar, shares of the government of Myanmar to management the Intergovernmental Commission on Human Rights and Legal Liability of the State, which provide a clear view of the situation observed.

Consequently, the use of measures involve the adoption of regulations International Security Responsibility to Protect is framed between the provisions applicable in the State of Myanmar, since it is based on the three pillars in cases of genocide, war crimes,

ethnic cleansing in addition to crimes against humanity, which as has been discussed, is the current situation of violation of the Rohingya community.

### **Methodological conclusions**

With regard to the historical treatment that the government of Myanmar has given the Rohingya community, the method for obtaining the information comes from the verification of International doctrinaire sources and agencies that provided insight into ethnic and religious backgrounds of ethnic under study, as well as the description of the violated rights of the Organization of the United Nations.

To describe human rights violations that result in the expulsion of the Rohingya minority, they were taken as plinths documents comprised of reports and investigations issued by official sources such as international organizations, the media, both national and international and relevant non-governmental agencies.

Marking the role of the Intergovernmental Commission on Human Rights of the Association of Nations of Southeast Asian Nations (AICHR) in response to the situation described, the legal interpretation of the rules of the Responsibility to Protect (R2P) was developed, based on three fundamental pillars.

### **Pragmatic conclusions**

The establishment of the development of negative actions by the Government of Myanmar regarding the treatment of the Rohingya, in relation to the persecution, suppression, establishment cruel treatment that caused the forced displacement of citizens of these ethnic groups to escape the situation brought about by the State without intention to remedy to the situation is displayed.

The human rights violations identified by the Government of Myanmar to the detriment of the Rohingya community; including identifying crimes against humanity, the refusal to allow access to humanitarian aid, the generation of displaced persons and refugees, absence of freedom of expression and religious freedom, establishment of laws that allow the death penalty.

As for the role of the Intergovernmental Commission on Human Rights of the Association of Nations of Southeast Asia (AICHR), its work goes beyond

humanitarian assistance to the affected population, in the promotion of activities to strengthen assistance to the population, besides channeling numerous complaints about human rights violations and social approach to participation in the mission to the request to the State of Myanmar and the eradication of ethnic and religious discrimination.

Undoubtedly, the effectiveness of the use of measures involving the application of international safety standard of Responsibility to Protect (R2P) would be of great importance, considering that it has shown a lack of interest of the government of Myanmar to put an end to the conflict that has caused significant stir because of the continuing violations of human rights of the Rohingya community, despite the recommendations of the international community and the migratory movement; it would be of interest to consider the viability of military intervention and consequently the rebuilding through the resilience of a society that has undergone rigorous violent attacks by the state.

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